

REMARKS

Applicants appreciate the Examiner's review of the Response filed October 22, 2007. Withdrawal of the rejections and allowance of all claims are requested.

New claim 60 has been added as a dependent claim to independent claim 39. Support for the new claim may be found at, for example, Specification P. 6, ll. 3 - 5. No new matter has been added by the amendments.

§ 101 REJECTION

Claims 54 - 55 are patentable under 35 U.S.C. § 101. Applicants have amended independent claim 54 to more clearly indicate that the claimed subject matter is statutory subject matter. Claim 54 has been amended to show that the server performs a method stored in a storage medium and executed by one or more processors. The claims are now clearly directed to statutory subject matter.

Claims 54 - 55 are patentable under 35 U.S.C. § 101. Withdrawal of the rejection and allowance of the claims are requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

The Examiner rejected claims 39, 45 - 46, 54 - 55, and 58 under 35 U.S.C. § 103(a) as being unpatentable over "Walker in view of Abelow." Office Action at P. 6. For purposes of this response, Applicant assumes that the references the Examiner is referring to is U.S. Patent No. 6,345,090 ("Walker") over U.S. Patent No. 5,999,908 ("Abelow").

In levying an obviousness rejection under 35 U.S.C. § 103, the Examiner has the burden of establishing that the prior art reference teaches or suggests all of the claim limitations. M.P.E.P. §2143; *see also, In re Royka*, 490 F.2d 981 (CCPA 1974). To determine obviousness, Examiners must consider (1) the scope and content of the prior art, (2) the differences between the claimed invention and the prior art, (3) the level of

ordinary skill in the pertinent art, and (4) objective evidence relevant to the issue of obviousness." *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). In addition, the Supreme Court has pointed out the "import[ance of] identify[ing] a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the new invention does." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (U.S. 2007). Here, the Examiner has not met the burden of showing obviousness.

Applicant submits that the combination of Walker and Abelow neither teaches nor suggests all elements of the claimed invention. Claim 39 of the instant case requires:

A method for purchasing telecommunication services, comprising:

receiving one or more requests a request for purchasing at least one telecommunication service at a server, the one or more requests request being associated with a buyer;

receiving information from the buyer regarding prior use of telecommunication services of the buyer;

generating an offer to provide the at least one telecommunication service to the buyer in response to receiving the one or more requests request and receiving the information, the offer being associated with a provider of telecommunication services; and

receiving a response to the offer, wherein the response is associated with the buyer, and wherein the response may be an acceptance of the offer or a rejection of the offer; and

notifying the provider of the response and an identity of the buyer.

Therefore, an offer is generated to provide a telecommunication service to the buyer in response to the buyer request and information, where the buyer responds to the offer either positively or negatively and the identity of the buyer is disclosed. Claim 39 has been amended to add that the response may be an acceptance of the offer or a rejection of the offer. Support for the amendment may be found, for example, at Specification P. 14, ll. 11 - 17. No new matter has been added by the amendments.

As stated in the claim, the buyer initially makes one or more requests for proposal to the seller(s). The prospective seller(s) makes an offer to the buyer who has the option of acceptance. Thus, "if the buyer accepts the terms and conditions, TMS sends an alert to selected seller... once selected, seller may contact buyer to sign a contract for desired telecommunication services." Specification P. 14, l. 11. Alternatively, "TSM 140 also notifies all of the rejected sellers that the buyer does not intend to order from them". Specification P. 14, ll. 16 - 17.

In contrast, Walker teaches the buyer generating an initial offer to the seller and "the CPO management system... bind[ing] the calling party... to form a legally binding contract." Walker at C. 4, ll. 53 – 55. Thus, Walker teaches that power of acceptance is held by the interexchange carriers, whereas the power of acceptance in Applicants' invention is held by the customer. Furthermore, Walker demonstrates a forethought to this process as Walker explicitly states that a legal binding contract is made when the seller accepted. Walker at C. 3, ll. 15 – 17. Thus, as Walker states "[i]f accepted, the CPO management system binds the calling party on behalf of the accepting interexchange carrier, to form a legally binding contract."

Neither Walker nor Abelow teach "receiving a response to the offer, wherein the response is associated with the buyer, and wherein the response may be an acceptance of the offer or a rejection of the offer" as required by the claim. Neither reference teaches allowing the buyer the ability to solicit offers from sellers and then choose to either accept or reject offers as required by the claim. Lacking an element of the claim, the cited references cannot anticipate the claim. Therefore, the claim is patentable over Walker in view of Abelow.

In addition, Applicant concurs with the Examiner that "Walker does not explicitly disclose that the prior use information is received from the buyer..." (Office Action at P. 8) but Applicants disagrees that Abelow cures this defect. The instant specification clearly states:

"Prior usage data includes particular questions for the sellers posed by the buyer.

The prior usage data includes data regarding prior telephone service usage by the buyer and/or estimates or assumptions on such usage derived from the buyer's answers to a set of queries provided by TSM 140."

Specification at P. 6, ll. 16 - 18.

Although Abelow teaches, "the ability to learn interactively and iteratively from the users of products and information systems anywhere in the world while they are in use," Abelow at C. 1, ll. 29 - 31, this is not the prior usage data contemplated by the Applicant's invention. The data in Abelow is intended to provide feedback regarding a product between a consumer and vendor. This feedback is about the consumer's experience with the product and does not assist the buyer with purchasing decisions about new services, which is the goal of Applicants' invention. In addition, Applicants' invention also provides the ability to retrieve prior usage data from a database that contains this information, Specification at P. 10, ll. 19 - 22, or from existing service bills, Specification at P. 10, ll. 17 - 19, a capability not taught by Abelow.

Furthermore, even if Abelow discloses the prior usage data feature, the combination of Abelow and Walker is nonfunctional because Abelow also teaches anonymous data transmission, which fundamentally undermines the purpose of data collection contemplated by the instant claims. Abelow teaches making a real time, continuous feedback form, which is anonymous. Abelow teaches that to protect privacy, the user may choose to send data in total privacy, support desk privacy, public information for vendor only, anonymous information for sale, and public information. Therefore, the user can determine whether or not to identify himself or herself to the vendor.

In contrast, Applicants' invention requires disclosure of the buyer's unique identification. Indeed, as the claim states, the identity of the buyer must be disclosed.

Dependent claims 45 – 46, 60 depend from independent claim 39 and add further patentable features to the patentable features of independent claim 39. Independent claims 54 and 58 have been amended similarly to independent claim 39. Dependent claim 55 depends from independent claim 54.

Therefore, claims 39, 45 - 46, 54 – 55, 58 and 60 are patentable over Walker in view of Abelow under 35 U.S.C. 103(a). Withdrawal of the rejections and allowance of all claims are requested.

CONCLUSION

Applicants submit concurrently a request for a three-month extension of time under 37 C.F.R. § 1.136 and the accompanying fee. Applicant also submits concurrently a Request for Continued Examination pursuant to 37 C.F.R. § 1.114. Please charge our Credit Card in the amount of \$1,860.00 covering the fees set forth in 37 C.F.R. § 1.17(e) and 1.17(a)(3). Credit Card Payment Form SB-2038 is enclosed with a signature from an authorized cardholder. In the event that any additional extensions of time are necessary to prevent the abandonment of this patent application, then such extensions of time are petitioned. The U.S. Patent and Trademark Office is authorized to charge any additional fees that may be required in conjunction with this submission to Deposit Account Number 50-2228, under Order No. 020748.0103PTUS, from which the undersigned is authorized to draw.

Dated: June 4, 2008

Respectfully submitted,

By 

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